UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

JAIBE SIVADEL, :

Plaintiff,

: 07 Civ. 7789(LAK)(THK)

-against-

:

: REPORT AND RECOMMENDATION

NAMSHIK YOON, et. al., STATE,

(PRO SE)

Defendant. :

TO: HON. LEWIS A KAPLAN, UNITED STATES DISTRICT JUDGE FROM: THEODORE H. KATZ, UNITED STATES MAGISTRATE JUDGE

The Complaint in this action was filed on September 4, 2007. By letter dated, October 11, 2007, the Court advised Plaintiff that, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, service of process was required to be effected by January 2, 2008, and that if he failed to effect timely service the action would be dismissed. The docket sheet for this action indicates that Plaintiff has not yet served Defendants with the Summons and Complaint. Moreover, the Court has ascertained that Plaintiff never provided the necessary service forms to the United States Marshals Service.

Accordingly, the Court recommends, pursuant to Rule  $4\,(m)$ , Fed. R. Civ. P., that this action be dismissed without prejudice.

Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule 72 of the Federal Rules of Civil Procedure, Plaintiff shall have ten (10) days from service of this Report to file written objections and show cause why this action should not be dismissed. See also Fed.

TO COUNSEL OF RECORD ON 14/10/8

R. Civ. P. 6(a) and (e). Such objections shall be filed with the Clerk of the Court, with extra copies delivered to the chambers of the Honorable Lewis A. Kaplan, United States District Judge, and to the chambers of the undersigned, Room 1660. Any requests for an extension of time for filing objections must be directed to Judge Rakoff. Failure to file objections will result in a waiver of those objections for purposes of appeal. See Thomas v. Arn, 474 U.S. 140, 145, 106 S. Ct. 466, 470 (1985); Frank v. Johnson, 968 F.2d 298, 300 (2d Cir. 1992); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

Respectfully submitted,

THEODORE H. KATZ

UNITED STATES MAGISTRATE JUDGE

Dated: January 16, 2007

New York, New York

Copy mailed to:

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